

Utah Disaster Kleenup and its workers compensation insurance carrier, Workers Compensation Fund (referred to jointly as “Kleenup”) ask the Utah Labor Commission to reconsider its prior decision affirming the ALJ’s award of benefits to L. M. under the Utah Workers’ Compensation Act (“the Act”; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this matter pursuant to Utah Code Ann. §63-46b-13.

ISSUES PRESENTED

_____ Kleenup contends the Commission’s prior order is contrary to the Commission’s findings. Kleenup also renews its previous argument alleging improper “retroactive” application of the Act. Finally, Kleenup contends the evidence does not establish Ms. M. was temporarily and totally disabled during the period in question and that the Commission’s findings violate the residuum rule.

DISCUSSION

The Commission has reviewed its prior decision in light of the issues raised by Kleenup’s request for reconsideration. The Commission believes its order is consistent with the facts and the applicable law. The Commission finds no basis for Kleenup’s argument of improper retroactive application of the law. As to Ms. M.’s status as temporarily and totally disabled after her accident, that issue has been fully addressed in the Commission’s prior decision. Finally, Kleenup’s arguments alleging improper reliance on hearsay evidence in contravention of the residuum rule are factually and analytically incorrect.

In summary, the Commission finds Kleenup’s arguments for reconsideration without merit.

ORDER

The Commission reaffirms its prior decision and denies Kleenup’s request for reconsideration. It is so ordered.

Dated this 28th day of March, 2002.

R. Lee Ellertson, Commissioner